IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.597 of 2006

S.Shanthi ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Perambalur District,
Perambalur. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the impugned order of detention in ref.No.Cr.M.P.No.23 of 2006 dated 25.04.2006 passed by the second respondent and set aside the same and consequently, direct the respondents to produce him and set forth the detenu Sekar, son of Perumal, now confined at Central Prison, Thiruchirappalli at liberty.

For Petitioner : Mr.G.R.Swaminathan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Sekar, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 25.04.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that the detention order is liable to be quashed on the ground of non application of mind on the part of the detaining authority. While elaborating the above contention, it is pointed out that the arrest memo, which is available at page 43 is containing crime No.156/2006 on the file of the Inspector of Police, P.E.W. Meensuruty. According to the learned counsel, the accused was arrested at 10.30 a.m. on 30.03.2006 and the same is also clear from the First Information Report, which is available at pages 37 and 38. If that is so, as rightly pointed out by the learned counsel for the petitioner, the crime number could not have found place in the arrest memo, which was prepared at the time of arrest at 10.30a.m. In fact the FIR makes it clear that, after the arrest of the accused at 10.30 a.m. along with contraband, the Inspector of Police, P.E.W. Meensuruty at 13.00 hours registered a case in Crime No.156/2006 under Sections 4(1)(b), 4(1)(a) read with 4(1-A) of TNP Act and Section 328 IPC. This discrepancy was not noticed by the detaining authority and as rightly pointed out by the learned counsel for the petitioner, the detention order was passed mechanically without satisfying himself. On this ground, the detention order is liable to be quashed and accordingly the same is quashed.

4. The Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Perambalur District, Perambalur.

3. The Superintendent, Central Prison, Thiruchirappalli.
(In duplicate for communication to detenu)

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4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 CC TO MR.G.R. SWAMINATHAN, ADVOCATE SR NO 37650

HCP. No.597 of 2006

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